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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,235	09/12/2003	Robert A. White JR.	031456/267963	6853

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EXAMINER

LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/661,235

**Applicant(s)**

WHITE ET AL.

**Examiner**

Michelle Lopez

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 9 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/11/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is response to the amendment filed on February 25, 2005.

#### *Allowable Subject Matter*

2. The indicated allowability of claims 4-6 is withdrawn in view of the newly discovered reference(s) to Flo-Pak BV (NL 1015126). Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Flo-Pak BV (NL 1015126).

Flo-Pak BV discloses a system for conveying a string of cushions 2 comprising an elongated cushion delivery duct 3 having an inlet end and means for conveying a string of cushions 2 from one point to another within said duct; means 9,19 for diverting said string of cushions to a plurality of work stations; a separator 25 adapted to sever said string of cushions when said string of cushions is within said elongated cushion delivery duct in response to a signal generated by sensors 10,20,10',20'; and a controller 6 adapted to generate a signal to control the diversion of the string of cushions and separating said string of cushions as disclosed in page 5;2-19; conveying means as a blower 4 (claim 2) and a machine conveyor via 3 (claim 3).

Art Unit: 3721

With respect to claim 4, Flo-Pak BV discloses a system for conveying a string of cushions 2 comprising an elongated cushion delivery duct having an inlet end at the vicinity of 7, an outlet end at 11,21, and at least one intermediate outlet 5,15 between said inlet and outlet ends, said inlet end of said duct capable of receiving said delivered string of cushions; a blower 4 adapted to establish an airflow in said duct to assist transport of said string of packaging cushions within said duct; a diverter 9,19 in said delivery duct adapted to move between a diverting position and a by-pass position in response to a diverter signal generate by sensors 10,20,10',20' wherein; said diverter position establishes a first flow path for said string of cushions in said duct from said inlet end through at least one intermediate outlet at 5 of said duct, and said diverter in the by-pass position blocks said at least one intermediate outlet to establish a second flow path to 15 for said string of cushions from said inlet end past said at least one intermediate outlet; a separator 25 between said inlet end and said at least one intermediate outlet at 5,15 of said duct, said separator adapted to separate said string of packaging cushions in said duct upon response to a signal generated by sensors 10,20,10',20'; and a controller 6 adapted to generate said diverter signal and a cutting signal in a coordinate sequence so that said separator 25 severs said string of cushions before said diverter adjusts from said diverting position to said by-pass position and from said by-pass position to said diverting position as shown in Fig. 1.

With respect to claim 5, Flo-Pak BV discloses a cushion-supply machine 7 capable of diverting a string of packaging cushions 2 into a duct 3, wherein each cushion is connected to at least one other adjoining packaging cushion of said string of packaging cushions.

With respect to claim 6, Flo-Pak BV discloses wherein said packaging cushions are air-filled cushions 2.

Art Unit: 3721

With respect to claim 7, Flo-Pak BV discloses at least one storage hopper 5,15 to receive said string of cushions located below said diverter 9,19 in said conveying means.

With respect to claim 8, Flo-Pak BV discloses a sensor 10,20,10',20' to generate a signal to said controller 6 indicating when said hopper needs additional cushions and to automatically fill said hopper with packaging cushions 2 as shown in page 5; 14-19.

With respect to claim 10, Flo-Pak BV discloses one or more intermediate outlets 5,15 and one or more diverters 9,19.

With respect to claim 11, Flo-Pak BV discloses a blower 4 located in said elongated cushion delivery duct 3 remotely from said inlet end.

With respect to claim 12, Flo-Pak BV discloses wherein said separator is a knife assembly 25.

#### ***Allowable Subject Matter***

4. Claims 9 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beard et al.'030 is cited to show related inventions.


Art Unit: 3721

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML

  
JOHN SIPOS  
PRIMARY EXAMINER